



US Army Corps
of Engineers
Seattle District



Joint Public Notice

Application for a Department of the Army Permit and a Washington Department of Ecology Water Quality Certification and/or Coastal Zone Management Consistency Concurrence

US Army Corps of Engineers
Regulatory Branch
Post Office Box 3755
Seattle, WA 98124-3755
Telephone (206) 764-6985
Randel Perry, Project Manager

WA Department of Ecology
SEA Program
Post Office Box 47600
Olympia, WA 98504-7600
Telephone (360) 407-6068
Attn: SEA Program, Federal Permit
Coordinator

Public Notice Date: October 28, 2009
Expiration Date: November 27, 2009

Reference No.: NWS-2009-899
Name: LaBounty Road, LLC

Interested parties are hereby notified that the U.S. Army Corps of Engineers (Corps) and the Washington Department of Ecology (Ecology) have received an application to perform work in waters of the United States as described below and shown on the enclosed drawings.

The Corps will review the work in accordance with Section 404 of the Clean Water Act (CWA). Ecology will review the work pursuant to Section 401 of the CWA, with applicable provisions of State water pollution control laws and the Coastal Zone Management Act.

APPLICANT: LaBounty Road, LLC

Mr. Ron Jepson and Mr. Rob Janicki
103 North Township Street
Sedro-Woolley, Washington 98284
Telephone: (360) 856-2068

AGENT:

Ronald Jepson and Associates
Ms. Frances Eustis
222 Grand Avenue, Suite C
Bellingham, Washington 98225
Telephone: (360) 733-5760

LOCATION: On property immediately northwest of the intersection of LaBounty Road and Sunset Avenue, Ferndale, Washington.

WORK: Fill 1.79 acres of wetlands and 30 linear feet of stream channel to facilitate construction of an industrial park and attendant features.

PURPOSE: Provide commercial and industrial facilities in the southern portion of Ferndale.

ADDITIONAL INFORMATION – Project involves the filling and grading of a 39.7 acre site for construction of buildings, roads, utilities, a rail spur, and stormwater treatment facilities. Wetlands targeted for fill are palustrine emergent and palustrine forested systems previously disturbed by site development including construction of roads,

utilities and a waste disposal pond. 30 linear feet of stream will be placed within a large box culvert as part of the site development.

MITIGATION: As mitigation for the proposed impacts to 1.79 acres of palustrine emergent and forested wetlands, 30 linear feet of stream, and 0.20 acres of upland buffers, the applicant has proposed on-site mitigation. The proposed mitigation is the establishment of 3.00 acres of wetlands, enhancement of 2.40 acres of wetlands, preservation of 2.93 acres of site wetlands (A and C), enhancement of 0.50 acres of riparian area, and enhancement of 1.50 acres of buffers.

ENDANGERED SPECIES: The Endangered Species Act (ESA) requires federal agencies to consult with the National Marine Fisheries Service (NMFS) and/or U.S. Fish and Wildlife Service (USFWS) pursuant to Section 7 of ESA on all actions that may affect a species listed (or proposed for listing) under the ESA as threatened or endangered or any designated critical habitat. A preliminary determination indicates that the activity will not affect endangered or threatened species, or their critical habitat. Consultation under Section 7 of the ESA is not required.

ESSENTIAL FISH HABITAT: The Magnuson-Stevens Fishery Conservation and Management Act, as amended by the Sustainable Fisheries Act of 1996, requires all Federal agencies to consult with the NMFS on all actions, or proposed actions, permitted, funded, or undertaken by the agency, that may adversely affect Essential Fish Habitat (EFH). The proposed action would impact EFH in the project area. The U.S. Army Corps of Engineers (Corps) has determined that the proposed action will not adversely affect designated EFH for federally managed fisheries in Washington waters. No further EFH consultation is necessary.

CULTURAL RESOURCES: The District Engineer has reviewed the latest published version of the National Register of Historic Places, lists of properties determined eligible and other sources of information. There are recorded historic properties within the permit vicinity. Due to the project area's position in the landscape, there is the potential for unknown historic properties to occur in the project area. An historic properties investigation will be required during the permit review. The District Engineer invites responses to this public notice from Native American Nations or tribal governments; Federal, State, and local agencies; historical and archeological societies; and other parties likely to have knowledge of or concerns with historic properties in the area. This public notice initiates consultation under Section 106 of the National Historic Preservation Act with any Tribe that has information or concerns with historic properties in the proposed permit area.

EVALUATION – CORPS - The decision whether to issue a permit will be based on an evaluation of the probable impacts, including cumulative impacts, of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefits, which reasonably may be expected to accrue from the proposal, must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered, including the cumulative effects thereof; among those are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership, and, in general, the needs and welfare of the people.

The Corps is soliciting comments from the public; Native American Nations or tribal governments; Federal, State, and local agencies and officials; and other interested parties in order to consider and evaluate the impacts of this activity. Any comments received will be considered by the Corps to determine whether to issue, modify, condition or deny a permit for the work. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the activity.

NWS-2009-899, LaBounty Road, LLC

The described discharge will be evaluated for compliance with guidelines promulgated by the Environmental Protection Agency under authority of Section 404(b)(1) of the CWA. These guidelines require an alternatives analysis for any proposed discharge of dredged or fill material into waters of the United States.

EVALUATION—ECOLOGY: Ecology is soliciting comments from the public; Federal, Native American Nations or tribal governments, State, and local agencies and officials; and other interested parties in order to consider and evaluate the impacts of this activity. Ecology will be considering all comments to determine whether to certify or deny certification for the proposed project.

ADDITIONAL EVALUATION: The project is outside the City of Ferndale Shorelines Management Program boundaries – no Shorelines Substantial Development Permit will be required for this project.

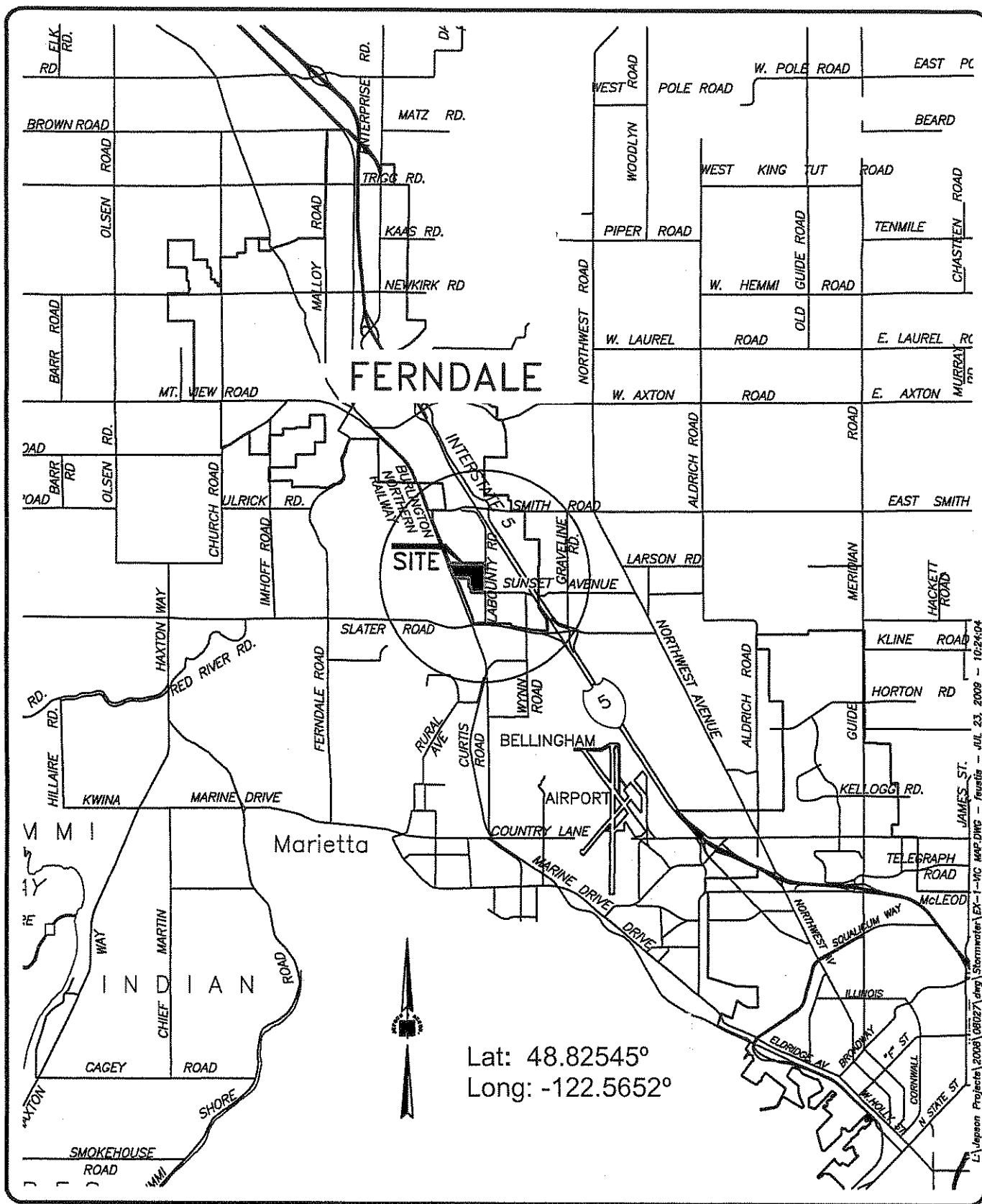
COMMENT AND REVIEW PERIOD: Conventional mail or e-mail comments on this public notice will be accepted and made part of the record and will be considered in determining whether it would be in the public interest to authorize this proposal. In order to be accepted, e-mail comments must originate from the author's e-mail account and must include on the subject line of the e-mail message the permit applicant's name and reference number as shown below. Either conventional mail or e-mail comments must include the permit applicant's name and reference number, as shown below, and the commentor's name, address, and phone number. All comments whether conventional mail or e-mail must reach this office, no later than the expiration date of this public notice to ensure consideration.

Corps comments: All e-mail comments should be sent to randel.j.perry@usace.army.mil. Conventional mail comments should be sent to U.S. Army Corps of Engineers, Regulatory Branch, Mr. Randel Perry, Post Office Box 3755, Seattle, Washington, 98124-3755.

Ecology Comments: Any person desiring to present views on the project pertaining to a request for water quality certification under Section 401 of the CWA and/or Coastal Zone Management consistency concurrence, may do so by submitting written comments to the following address: Department of Ecology, Attn: SEA program – Federal Permit Coordinator, Post Office Box 47600, Olympia, Washington, 98504-7600, or e-mail to ecyrefedpermit@ecy.wa.gov

To ensure proper consideration of all comments, responders must include the following name and reference number in the text of their comments: LaBounty Road, LLC, NWS-2009-899.

Encl: Figures (9)



WETLAND G
(CATEGORY II)
19,787 SF

TYPE III STREAM

WETLAND A
(CATEGORY III)
73,009 SF

WETLAND D
(CATEGORY III)
110,820 SF

WETLAND C
(CATEGORY III)
48,898 SF

WETLAND H
(CATEGORY IV)
24,086 SF

WETLAND F
(CATEGORY IV)
5,305 SF

LABOUNTY ROAD

SUNSET AVENUE



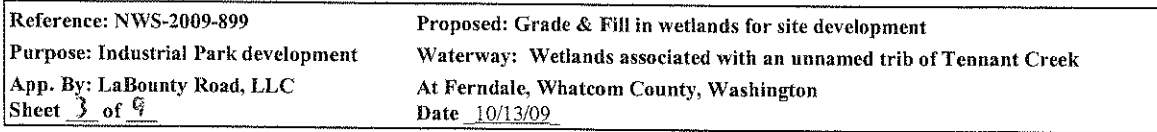
WETLAND

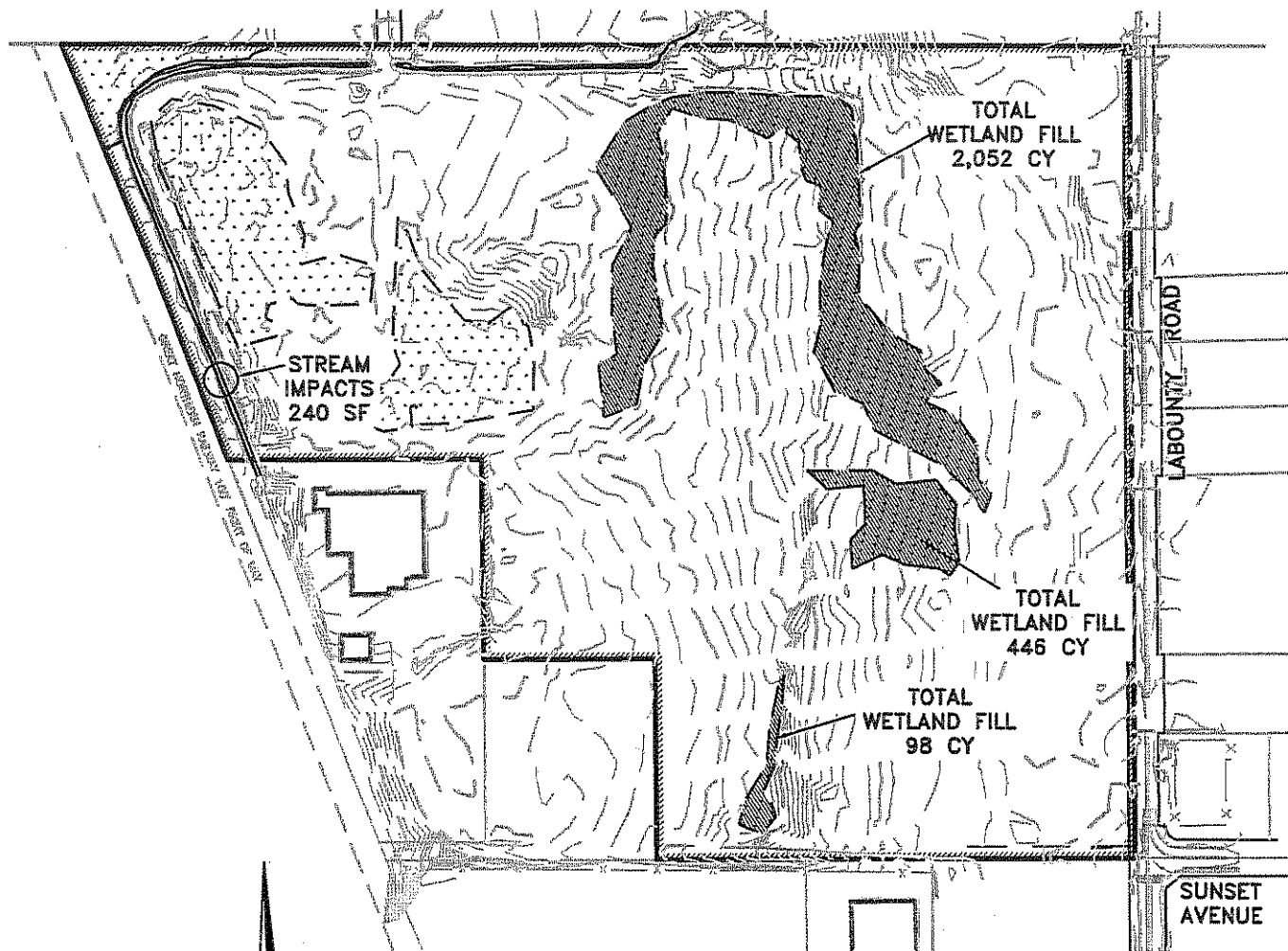
300 0 300 600
SCALE: 1" = 300'

Reference: NWS-2009-899
Purpose: Industrial Park development
App. By: LaBounty Road, LLC
Sheet 1 of 9

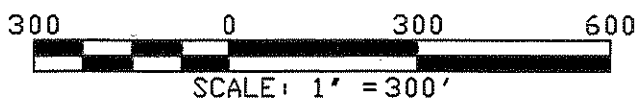
Proposed: Grade & Fill in wetlands for site development
Waterway: Wetlands associated with an unnamed trib of Tennant Creek
At Ferndale, Whatcom County, Washington
Date 10/13/09

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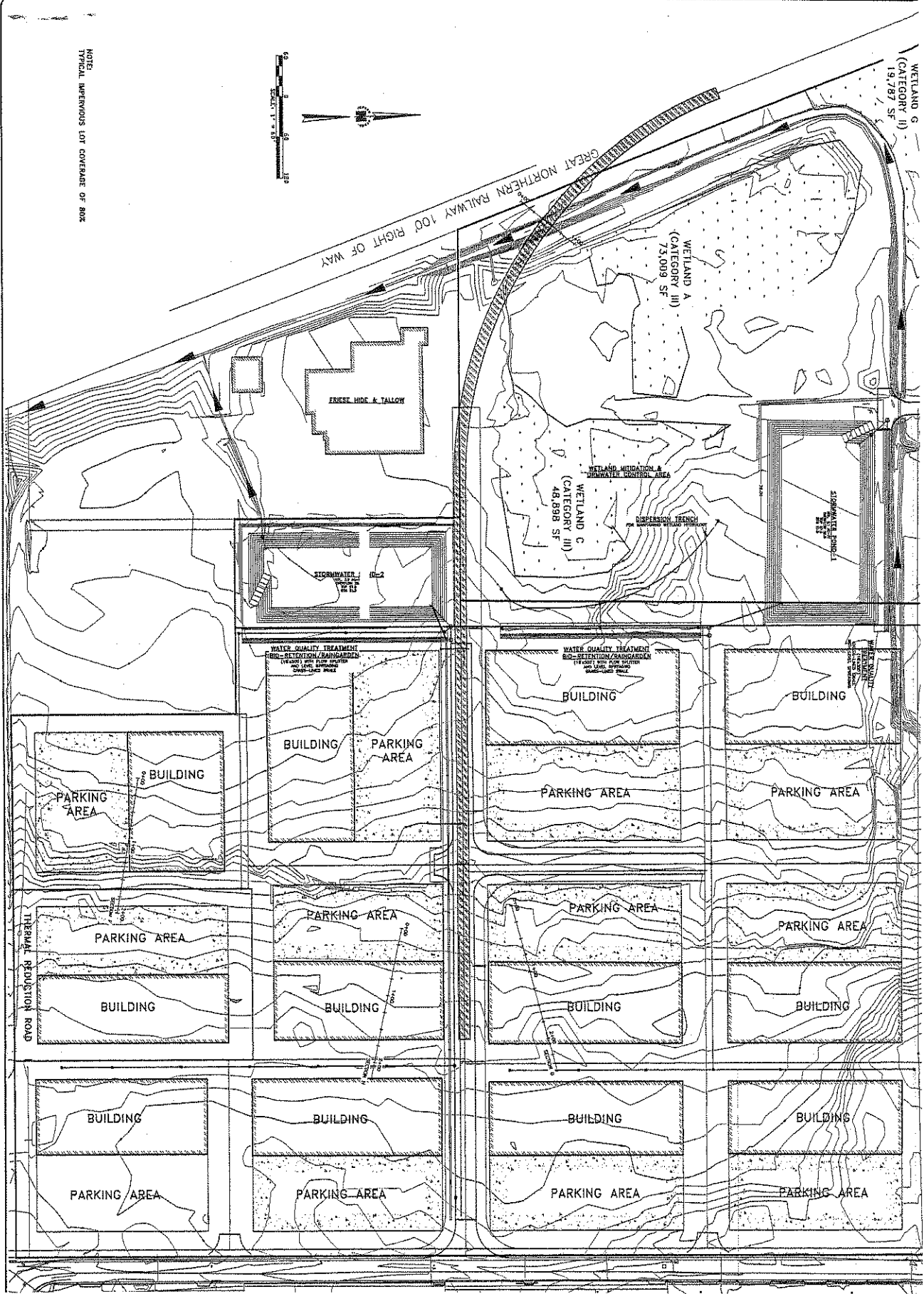


WETLAND FILL IMPACTS



Reference: NWS-2009-899
Purpose: Industrial Park development
App. By: LaBounty Road, LLC
Sheet 4 of 9

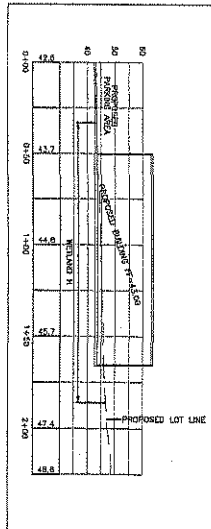
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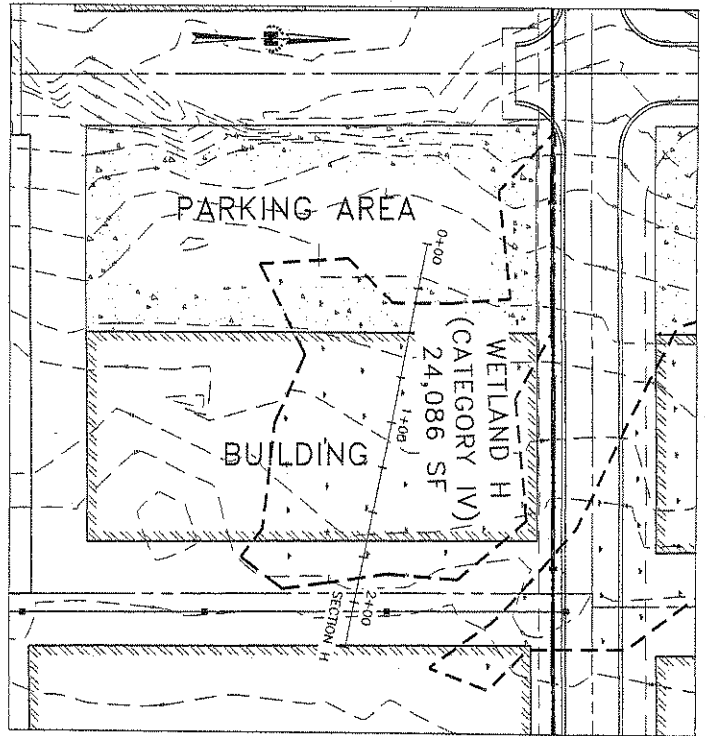
Reference: NWS-2009-899	Proposed: Grade & Fill in wetlands for site development
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App. By: LaBounty Road, LLC	At Ferndale, Whatcom County, Washington
Sheet 5 of 9	Date 10/13/09

THE USE OF THESE PLANS FOR OTHER PURPOSES SHALL BE AT THE USER'S RISK AND WITHOUT LIABILITY TO THE ENGINEER. THE ENGINEER'S RESPONSIBILITY IS LIMITED TO THE DESIGN AND CONSTRUCTION OF THE PROJECT AS SHOWN ON THESE PLANS. THE ENGINEER'S RESPONSIBILITY IS LIMITED TO THE DESIGN AND CONSTRUCTION OF THE PROJECT AS SHOWN ON THESE PLANS. THE ENGINEER'S RESPONSIBILITY IS LIMITED TO THE DESIGN AND CONSTRUCTION OF THE PROJECT AS SHOWN ON THESE PLANS.

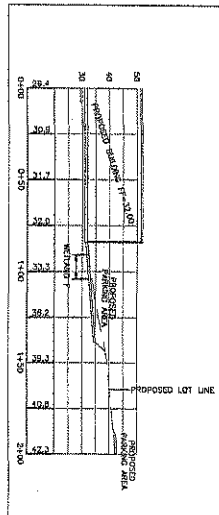
WETLAND H X-SECTION



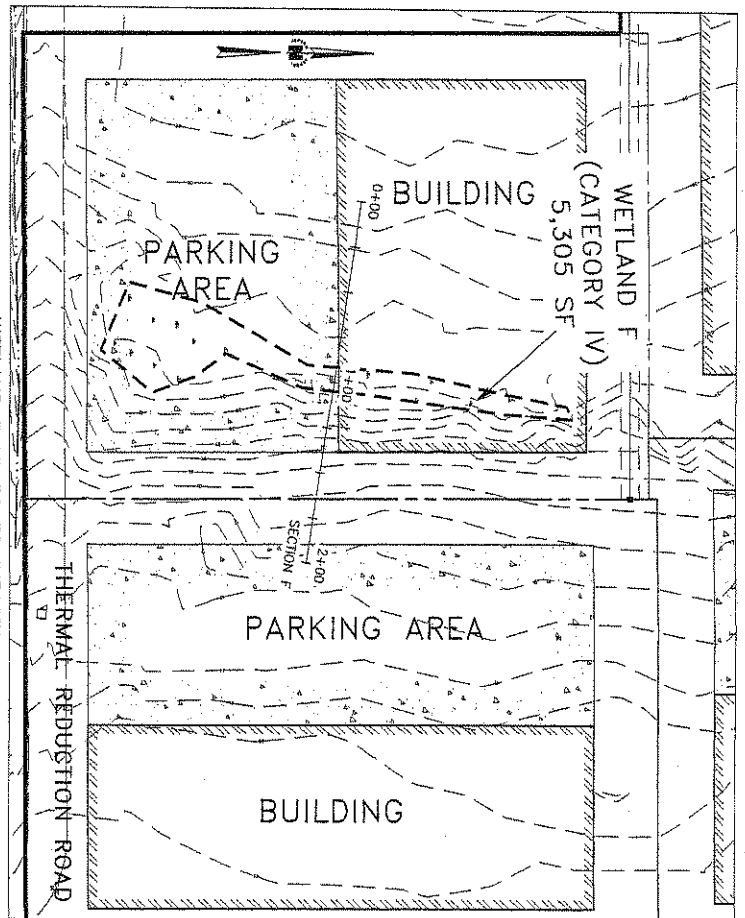
WETLAND H PROPOSED IMPACTS



WETLAND F X-SECTION



WETLAND F PROPOSED IMPACTS



Reference: NWS-2009-899

Purpose: Industrial Park development

App. By: LaBounty Road, LLC

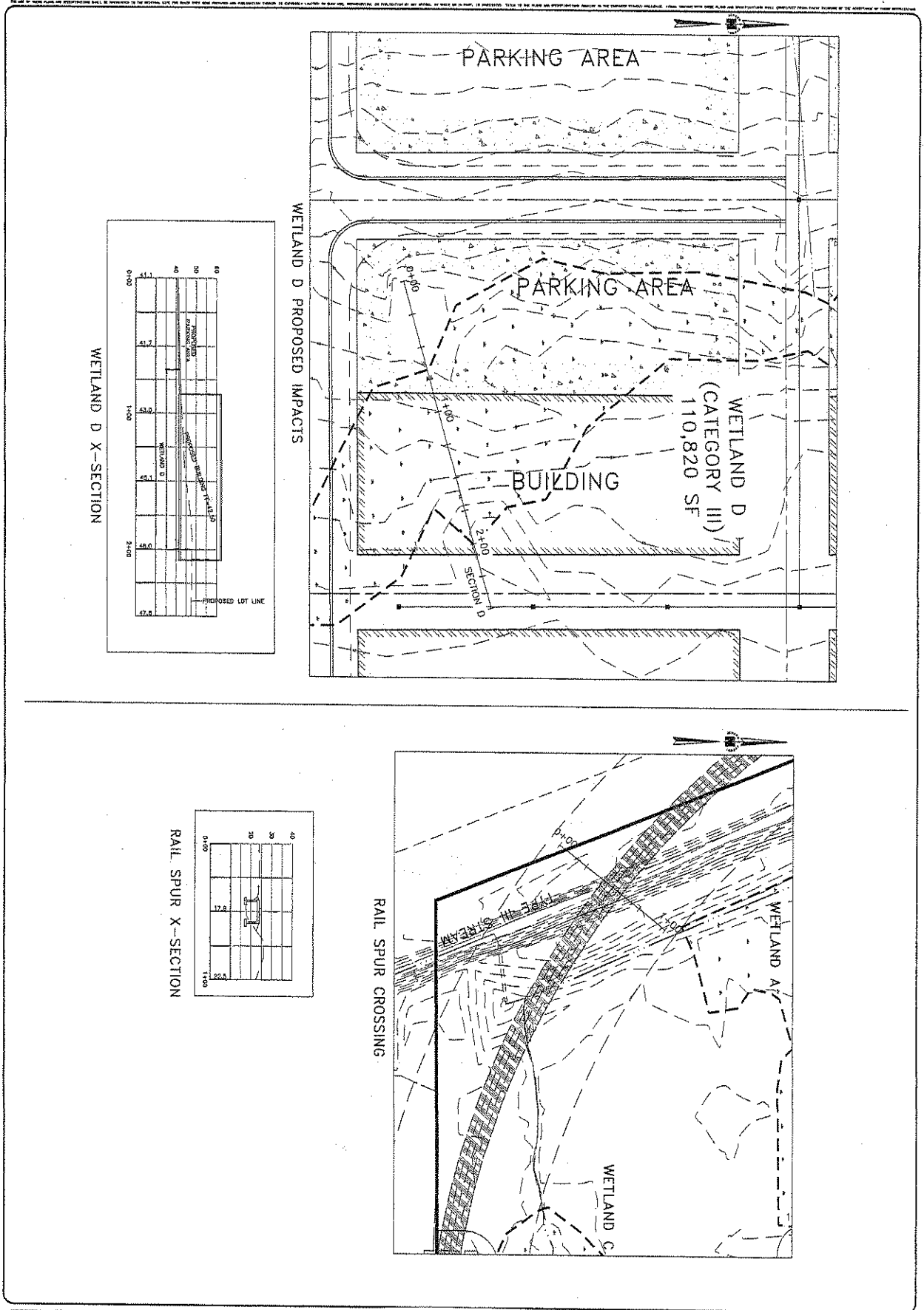
Sheet 6 of 9

Proposed: Grade & Fill in wetlands for site development

Waterway: Wetlands associated with an unnamed trib of Tennant Creek

At Ferndale, Whatcom County, Washington

Date 10/13/09



Reference: NWS-2009-899

Purpose: Industrial Park development

App. By: LaBounty Road, LLC

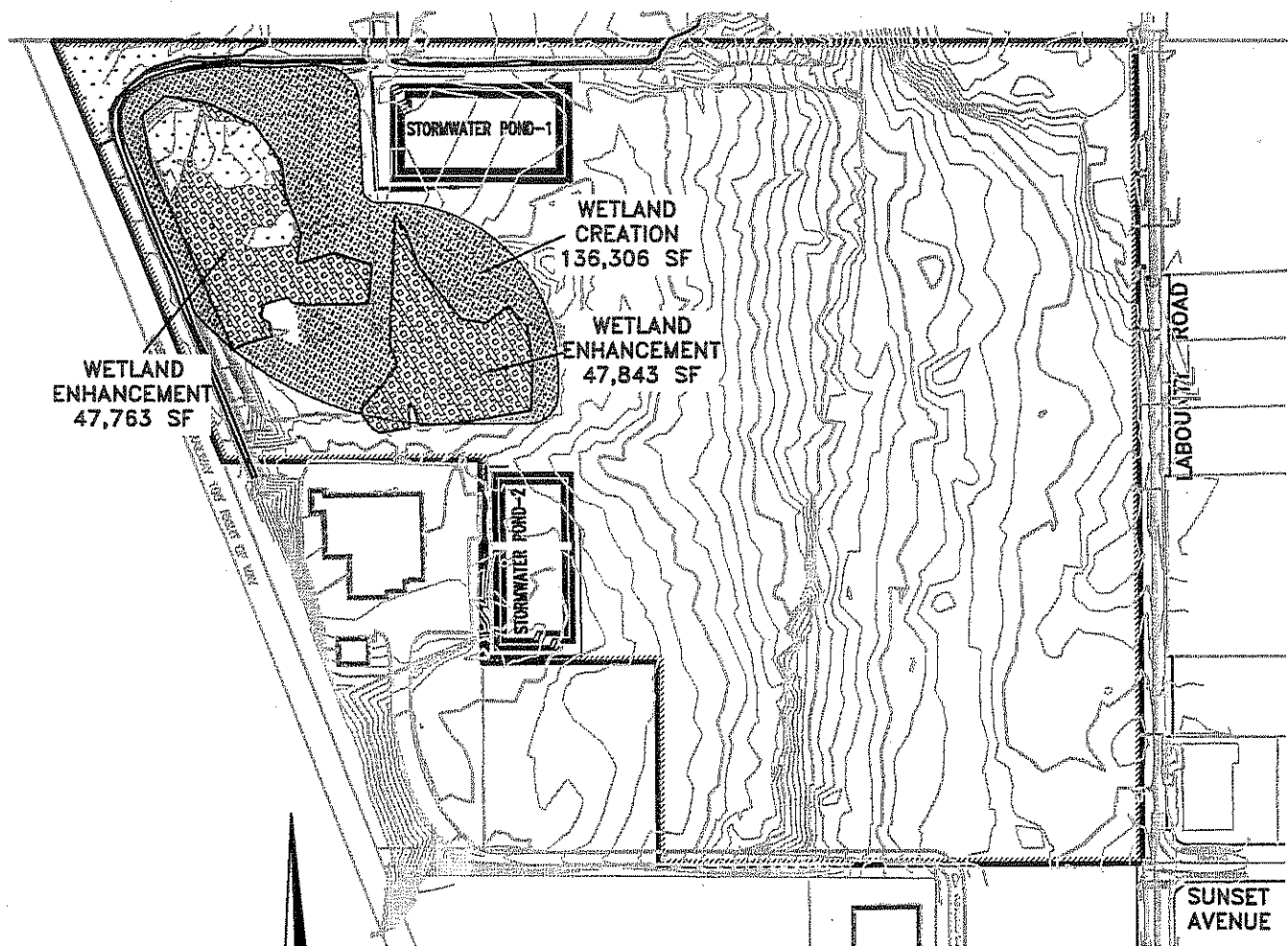
Sheet 7 of 9



Proposed: Grade & Fill in wetlands for site development

Waterway: Wetlands associated with an unnamed trib of Tennant Creek

At Ferndale, Whatcom County, Washington

Date 10/13/09

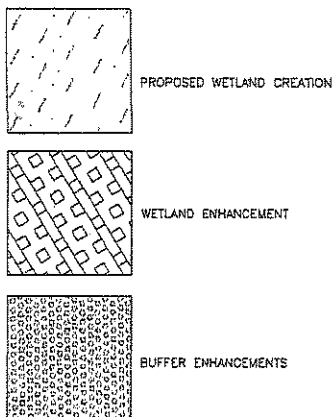


-  PROPOSED WETLAND CREATION
-  WETLAND ENHANCEMENT



Reference: NWS-2009-899
 Purpose: Industrial Park development
 App. By: LaBounty Road, LLC
 Sheet 8 of 9

Proposed: Grade & Fill in wetlands for site development
 Waterway: Wetlands associated with an unnamed trib of Tennant Creek
 At Ferndale, Whatcom County, Washington
 Date 10/13/09



TOTAL WETLAND CREATION	136,308
TOTAL WETLAND ENHANCEMENT	96,334
TOTAL BUFFER ENHANCEMENT	70,071
TOTAL WETLAND PRESERVATION	19,767
TOTAL RIPARIAN ENHANCEMENT	24,848

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